

PATENT

Atty Docket No.: 200403365-1
App. Ser. No.: 10/830,217

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. Claims 1-27 and 29-36 are pending of which claims 1, 23, 26, 29 and 34 are independent. Claim 28 is canceled.

Claims 1, 12, 13, 22, 29, 35 and 36 were rejected under 35 U.S.C. §102(b) as being anticipated by Wurzburg et al. (5,546,591), referred to as Wurzburg.

Claims 2 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wurzburg as applied to claims 1, 12, 13, 22, 29, 35 and 36 above, and further in view of Evoy.

Claim 34 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hepner et al. (7,134,029), referred to as Hepner, in view of Lippert et al. (7,017,061), Lippert.

These rejections are respectfully traversed for the reasons stated below.

Examiner Interview Conducted

A draft of the claim amendments herein was sent to Examiner Connolly on 10/17/07. Also, Applicants' representative, Ashok Mannava, discussed the amendments with Examiner Connolly on 10/17/07, and asked Examiner Connolly to review the amendments to determine whether the amendments place the application in condition for allowance. Examiner Connolly left a voicemail for Ashok Mannava on 10/19/07 indicating that the amendments likely place the application in condition for allowance, but a further search is needed because the claims, including independent claim 34, do not exactly combine the allowable subject matter from the dependent claims.

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Allowable Subject Matter

The Examiner is thanked for indicating that claims 3-11, 14-21, 27, 28 and 31-33 include allowable subject but are objected to as being dependent on a rejected base claim. Also, claims 23-26 are allowed.

It should be noted that claim 27 is dependent on allowed independent claim 26. Thus, it appears claim 27 was objected to in error. Claim 27 must be allowed because it is dependent on allowed claim 26.

Claim Rejections Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 12, 13, 22, 29, 35 and 36 were rejected under 35 U.S.C. §102(b) as being anticipated by Wurzburg.

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Regarding independent claim 1 and dependent claims 12, 13, 22, 35 and 36, the features of claim 4, which were indicated as including allowable subject matter, have been combined with claim 1. Accordingly, claims 1, 12, 13, 22, 35 and 36 are allowable. Also, independent claim 29 has been amended similarly to claim 1, and thus claim 29 is allowable.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 2 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wurzburg as applied to claims 1, 12, 13, 22, 29, 35 and 36 above, and further in view of Evoy.

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Claim 2 is dependent on claim 1, and claim 30 is dependent on claim 29. Claims 2 and 30 are allowable for at least the reasons claims 1 and 29 are allowable.

Claim 34 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hepner Hepner, in view of Lippert.

Claim 34 has been amended to include the features of claim 18, which was indicated as including allowable subject matter. Thus, claim 34 is allowable.

Other Independent Claims

Claims 15, 16, 18 and 21 were objected to as including allowable subject matter but being dependent on a rejected base claim. By the amendments herein, claims 15, 16, 18 and 21 have been made independent by including the features of the corresponding independent claim and any intervening claims. Thus, claims 15, 16, 18 and 21 are believed to be allowable.

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Conclusion


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: October 23, 2007

By


Ashok K. Mannava
Registration No.: 45,301

MANNAVA & KANG, P.C.
8221 Old Courthouse Road
Suite 104
Vienna, VA 22182
(703) 652-3822
(703) 865-5150 (facsimile)